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N-4 State Grazing Board

February 20, 2004

Ms. Robin Sweeney
Office Natl Trans, OCRWM
U.S. Department of Energy
1551 Hillshire Drive, M/S 011
Las Vegas, Nevada 898134

Subject: Initial comments regarding DOE proposed rail route extending from Caliente, NV to the Yucca Mountain repository facility.

Dear Mrs. ~~Landrum~~ Sweeney

In a recent meeting of the N-4 State Grazing Board at Caliente, Nevada, the Board was provided an overview of the proposed DOE Yucca Mountain rail transportation project by Bob Lupton, Dan Kane, and Ed Mueller, each associated with the Las Vegas DOE office. In addition to the informative discourse regarding the project, they encouraged the Board to provide correspondence to you outlining the initial questions and/or concerns of the Board with respect to the DOE proposed rail corridor. The following is a partial list of initial concerns discussed at our meeting for your consideration:

1. The Federal Register publication indicates temporary (2year / 20 year) withdrawal as effective now. How will this withdrawal effect current permitted uses of the BLM managed lands?
2. Livestock are free ranging over historic allotments amounting to many thousands of acres within a single perimeter fence, or no fences in some instances, separating use areas. Indigenous livestock are familiar with their range areas, critical feed areas, and the all important location of watering sources. Will rail corridors be fenced to exclude livestock. If fenced, how will livestock access traditional feed areas and water sources?
3. It was reported that the train will be moving at a speed of 35 miles per hour and traversing the area only initially at one trip per week. If this is the maximum

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speed allowed through the test site, is it conceivable that the rail area may go unfenced once completed?

4. If livestock losses do occur as a result of rail traffic, will the DOE compensate the livestock permittees for their losses?
5. If the rail corridor is fenced, how wide will the easement be, will the livestock interests be able to have inputs as to fencing specifications for excluding livestock, and what measures will be offered as mitigation for forage loss within the easement area?
6. Who will have responsibility for maintenance of any fencing projects that might become necessary as part of the proposed project?
7. If the rail corridor is fenced, what provisions will be offered for livestock to access all parts of the permitted allotments and will watering facilities be strategically placed to assure that livestock do not have to travel unrealistic distances to water?
8. Will DOE work with the permittees while outlining the final alignment of the rail route to avoid sensitive areas and accommodate routing most conducive to the animal grazing / handling needs?
9. The project is planned to occur in the *most arid* and likely the *most sensitive* environment in the United States. Only limited science is available regarding revegetation techniques and successes in this environment. Linear disturbances are the most difficult to revegetate, even under the best of conditions. Numerous soil types will be crossed, supporting different vegetation and have different capabilities and limitations. How will the DOE approach revegetation of disturbed areas and what steps will be taken to absolutely minimize the amount of disturbance to the native plant community?
10. Will the ranchers and other effected interests have the opportunity to review and have inputs to disturbance and proposed reclamation/revegetation plans ?
11. The curse of any land disturbance activity is ultimately the invasive weeds that have a propensity to establish on site and over time spread into the native plant community. What steps will be taken to assure consistent and effective control of invasive weed species?
12. Will there be a maintenance element in the plan to address invasive weed problems as soon as they arise?
13. With respect to revegetation of soil disturbances, what assurances are there that these areas will in fact be successfully seeded and what are the species that will be considered for revegetation? Will the livestock permittees and Nevada research community (i.e. Dr. James Young, USDA-ARS) be afforded input and review opportunities for proposed treatments?

14. Both wildlife and livestock can be drawn to the hazards of the rail corridor if the plants selected for reclamation have high palatability. Livestock can be fenced away from the tracks, but not wildlife. If livestock and/or wildlife concentrate grazing in a corridor due to highly palatable seeded plants, the plants may succumb to the grazing pressure unless fenced. Access to highly palatable plant species discourages livestock from distributing across the allotment as is desired during the grazing season. Will these concerns be considered during the planning phase?
15. Will security and/or maintenance roads be constructed and maintained along the rail route? If so, will additional facilities to house personnel and equipment be constructed off site near the rail route resulting in additional land disturbances? What will these disturbances amount to in acres and where will they be located.
16. Will local livestock permittees and other public lands users (mining, rock hounding, hunting, prospecting, sightseeing, other multiple uses) have access to the proposed constructed roads and not encumbered in any way?
17. What kind of security will DOE implement along the rail corridor? What limitations will be placed on the livestock permittees and general public with respect to normal land user activity?
18. Will the public continue to have access to existing roads along the proposed rail route?
19. Many communities are remote or isolated in parts of rural Nevada. Will the railroad be made available to access for potential commercial (mining, agriculture, etc) uses by some of these rural communities, or used strictly for DOE purposes?
20. Will DOE needs require filing for any water rights in the effected area? If so for what uses and amounts, and will other potentially impacted existing water rights in the area be protected from unnecessary draw down?
21. Will water developed as part of the project be available for livestock, wildlife, recreation, safety and emergency services?
22. What kind of security will DOE implement along the rail route ?
23. Will legitimate business and permitted individuals (ranchers, miners) have access to whatever wireless communication system DOE builds to service the entire route?
24. DOE and BLM land withdrawal plans consider only federal lands, how will DOE protect the private lands, water developments, etc. within the proposed route? What mitigation is planned for impacts that will occur to nearby private lands and other holdings?

As denoted in this preliminary list, there are numerous concerns and questions regarding the proposed rail route and its impact on our industry. While the permittees are not happy with the decision to construct the rail route through their allotments, they, as well as the N-4 State Grazing Board, are concerned that impacts be minimized and/or mitigated in a fair and equitable manner.

The Board is therefore requesting cooperating agency status with DOE, so we can better coordinate and stay abreast of the project progress and issues that may arise with respect to the land resources and historic uses. We further would appreciate the opportunity to meet with you regarding DOE retaining the services of a mutually acceptable consultant familiar with the grazing allotments, vegetation issues, revegetation approaches in arid environments, monitoring needs, access issues, and potential alternatives to mitigate forage losses to effected permittees.

To be afforded every opportunity to participate and comment regarding the above listed concerns, the N-4 State Grazing Board is respectfully requesting that DOE hold all meetings regarding this project in at least the communities of Pioche, Ely, and Tonopah.

I look forward to your response to this correspondence. Please feel free to notify me at [REDACTED] or Connie Simkins, Secretary to the Board, at [REDACTED] regarding questions you may have.

Sincerely,



Merlin R. Flake, Chairman, N-4 State Grazing Board

MF:cs

Cc: Nye County Commission
Lincoln County Commission
Esmeralda County Commission
Gene Kolkman, Ely BLM Field Office
Bob Abbey, Director, Nevada BLM
Governor Kenny Guinn
Senator Harry Reid
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